(3)

Supreme Court, U.S.
FILED
NOV 20 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. 85-2116.

In The Supreme Court of the United States

OCTOBER TERM, 1986

COMMONWEALTH OF PUERTO RICO,
Petitioner,

v.

TERRY E. BRANSTAD, AND THE STATE OF IOWA, RONALD CALDER, INTERVENOR,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

JOINT APPENDIX

HECTOR RIVERA CRUZ
Secretary of Justice
Commonwealth of Puerto Rico

RAFAEL ORTIZ CARRION
Solicitor General
Commonwealth of Puerto Rico

LINO J. SALDANA
Counsel of Record
SALDANA, REY, MORAN & ALVARADO
P.O. Box 13954
Santurce, Puerto Rico 00908
(809) 721-6345

SUSAN ESTRICH
TUTTLE & TAYLOR, INC.
Los Angeles, California
KATHLEEN M. SULLIVAN
Cambridge, Massachusetts
Attorneys for Petitioner

THOMAS J. MILLER
Attorney General Iowa

BRENT R. APPEL
Counsel of Record
Deputy Attorney General
Hoover Building
State Capitol
Des Moines, Iowa 50309
(515) 281-5166
Attorneys for Terry E. Branstad and the State of Iowa, Respondents

WILLIAM L. KUTMUS
620 Fleming Building
Des Moines, Iowa 50309
(515) 288-3339
Attorney for Intervenor Ronald Calder, Respondent

Petition for Certiorari Filed June 23, 1986
Certiorari Granted October 6, 1986

603 PJ

JOINT APPENDIX.

TABLE OF CONTENTS.

Chronological List of Relevant Docket Entries 1a

Plaintiff's Complaint, filed February 15, 1984 ..... 2a

Defendants' Motion to Dismiss, filed March 6, 1984 ..... 9a

Motion for Leave to Intervene and Joint Motion to Dismiss, filed by Ronald Calder March 9, 1984 ..... 11a

Order Permitting Intervention, filed August 2, 1984 ..... 13a

Stipulation of Facts, filed in the District Court December 3, 1984 ..... Pet. App. A17*

1. Accusation, dated February 4, 1981 [Exhibit A] 14a
2. Information Charging First Degree Murder, dated February 27, 1981 [Exhibit B] ..... Pet. App. A28
3. Information Charging Attempted Murder, dated February 27, 1981 [Exhibit C] ..... Pet. App. A31
4. Arrest Warrant, dated March 4, 1981 [Exhibit D] ..... Pet. App. A24
5. Fugitive Resolution, dated April 13, 1981 [Exhibit E(1)] ..... Pet. App. A25
6. Arrest Warrant, dated April 13, 1981 [Exhibit E(2)] ..... Pet. App. A27

* Documents denoted in this manner have already been reprinted in the Appendix to the Petition for Certiorari.

7. Fugitive Notification to Sheriff's Office, Polk County, Des Moines, Iowa, dated April 23, 1981 [Exhibit F] 18a

8. Extradition Request by the Governor of Puerto Rico, dated May 15, 1981 [Exhibit G] ..... Pet. App. A22

9. Sworn Statement of Antonio de Jesús González, dated January 26, 1981 [Exhibit H] ..... Pet. App. A34

10. Sworn Statement of Rosa I. Marrero, dated January 28, 1981 [Exhibit I] ..... Pet. App. A38

11. Sworn Statement of Antonio de Jesús González, dated May 14, 1981 [Exhibit J] ..... Pet. App. A42

12. Grant of Extradition Hearing by the Governor of Iowa, dated June 3, 1981 [Exhibit L] 19a

13. Notice of Extradition Hearing, dated June 3, 1981 [Exhibit K] 20a

14. Transcript of Extradition Hearing held June 17, 1981 [Exhibit M] 21a

15. Letter Requesting Transcript of the Extradition Hearing, dated July 23, 1981 [Exhibit N] 54a

16. Letters dated March 9 and 18, 1982, Informing that the Second of Two

Tapes was Destroyed in the Process of Duplication [Exhibits O(1) and O(2)] 55a

17. Letter dated September 22, 1981 on Negotiations for Mr. Ronald Calder's Voluntary Return to Puerto Rico [Exhibit P] 57a

18. Denial of Extradition Request by the Governor of Iowa, dated December 28, 1981 [Exhibit Q] ..... Pet. App. A44

Order of the District Court, entered May 22, 1985 ..... Pet. App. A10

Opinion of the Court of Appeals, filed March 28, 1986 ..... Pet. App. A1

Judgment of the Court of Appeals, entered March 28, 1986 ..... Pet. App. A16

Chronological List of Relevant Docket Entries.

February 15, 1984 — Plaintiff Commonwealth of Puerto Rico's Complaint filed in the U.S. District Court for the Southern District of Iowa, Central Division.

March 6, 1984 — Defendants Terry E. Branstad and the State of Iowa's Motion to Dismiss for failure to state a claim upon which relief may be granted.

March 9, 1984 — Motion for Leave to Intervene and Joint Motion to Dismiss filed on behalf of Ronald Calder.

March 23, 1984 — Order entered permitting intervention by Ronald Calder pursuant to Rule 24 of the FRCP.

Aug. 3, 1984 — Order entered deciding that matter shall be submitted to the District Court on a stipulated record.

Dec. 3, 1984 — Stipulation of Facts with Exhibits A to Q filed.

May 22, 1985 — Order and Judgment of District Court entered, denying the application for a writ of mandamus and dismissing the declaratory judgment claim.

June 24, 1985 — Plaintiff's motion filed for extension of time for filing notice of appeal.

June 26, 1985 — Order entered granting plaintiff's motion for extension to June 27, 1985 to file notice of appeal.

June 27, 1985 — Plaintiff's notice of appeal filed in District Court.

March 28, 1986 — Opinion and judgment of the U.S. Court of Appeals for the Eighth Circuit entered, affirming judgment of the District Court.

In the United States District Court
for the Southern District of Iowa
Central Division

Commonwealth of Puerto Rico, Plaintiff,	)	
	)	Civil Action No.
v.	)	
Terry E. Branstad and the State of Iowa, Defendants.	)	

COMPLAINT

Comes now the Commonwealth of Puerto Rico and by its Secretary of Justice and Special Counsel, does state and allege as follows:

1.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331. This action arises under Article IV, Clause 2 of the Constitution of the United States and 18 U.S.C. § 3182.

2.

The plaintiff, the Commonwealth of Puerto Rico, has sought to extradite a fugitive, one Ronald Calder, from Iowa where he has resided since "jumping bail" in Aguadilla, Puerto Rico in mid-April, 1981.

3.

The defendant, the State of Iowa, has denied and continues to deny the request for the return of Ronald Calder.

4.

On or about January 25, 1981, in Aguadilla, Puerto Rico, Army Villalba, who was then eight months pregnant, was run over by a car driven by Ronald Calder. Both Mrs. Villalba and the baby died on January 25, 1981. According to the sworn statements of eye-witnesses, including the victim's husband, Antonio DeJesus Gonzalez, Calder caused these deaths in a deliberate attempt to run down the couple following an argument with Gonzalez. Witness' testimony demonstrated that Mr. Calder drove his car over the victim more than one time.

5.

Some hours after the incident Ronald Calder was brought before Municipal Judge Jose Moreno and charged with homicide. Bail was set at $5,000.00.

6.

On or about February 4, 1981, after a thorough investigation and in accordance with Puerto Rican Law, the case was submitted by the District Attorney to Judge Benito Diaz-Laureano. After examining the witnesses brought before him, the Court found probable cause to charge Calder with attack to commit murder (Criminal Case G81-90) and first degree murder (Criminal Case G81-90). Bail was set at $10,000.00 and $5,000.00 respectively. Upon deposit of $5,000 cash Mr. Calder was

released. On that same day Calder was summoned for a preliminary hearing but failed to appear. Pursuant to Puerto Rican Law, the Court ruled that by his absence Calder had waived his right to a preliminary hearing.

7.

After setting the arraignment for two occasions on which Calder did not appear and upon the request of the district attorney, Calder's bail was increased to $55,000.

8.

On or about April 13, 1981, Judge Jose Capella Capella declared Calder a fugitive from justice after a search for the suspect proved unsuccessful.

9.

On or about mid-April 1981 Calder returned to his native state of Iowa. On April 16, 1981, the Puerto Rico police notified the Polk County, Iowa Sheriff's Office by cable that Calder was a fugitive and that extradition papers would follow.

10.

On or about April 24, 1981, Calder was arrested by the Des Moines Police Department. He posted the $20,000 bond set by the magistrate.

11.

On or about May 18, 1981, Carlos Romero Barcelo, Governor of Puerto Rico, made a formal demand on then-Governor

Ray of Iowa to deliver Calder to the Puerto Rican authorities. The demand complied in all respects with the requirements of 18 U.S.C. § 3182. Governor Romero Barcelo's warrant and extradition papers contained: 1) a copy of the arrest warrant dated March 4, 1981; 2) fugitive resolution of the Court, dated April 13, 1981; 3) information by the district attorney dated February 27, 1981; 4) two sworn affidavits establishing probable cause; 5) sworn identification of Calder's photograph; 6) verification by Governor Romero Barcelo: that all papers were duly authenticated, that Calder was charged with murder and attempted murder, that a court of Puerto Rico had found probable cause upon a preliminary hearing, and that Calder was then a fugitive from justice.

12.

On or about June 17, 1981, at the request of the fugitive, an extradition hearing was held by Governor Ray's office. The scope of an extradition hearing is limited by statute to whether the extradition request is in the proper form; whether the accused is the person named in the requisition papers; and whether the accused meets the requirements of a fugitive from justice. Neither the form of the papers nor the identity and fugitive status of the accused were disputed by Iowa. Calder himself admitted to being the person sought and to having fled Puerto Rico before arraignment.

13.

At the June 17 hearing, four witnesses testified on behalf of Calder as follows:

1. William Kutmus, counsel for Calder, admitted that his client was a fugitive and was the man sought by Puerto Rico.

2. Mark Pennington, counsel for Calder, testified concerning his impressions in regard to the state of Puerto Rican justice

based on two trips to Puerto Rico in March 1981. Although Mr. Pennington speaks no Spanish, he testified that based on his conversations with the residents of the island, and the media coverage of the event, Calder could not receive a fair trial in Puerto Rico because of anti-American sentiments and because of the judicial system itself.

3. Gene Miller was Calder's companion on the day of the alleged murder. Miller testified to threats of violence to himself and Calder following the incident. He also gave his perceptions about the criminal justice process in Puerto Rico.

4. Ronald Calder testified that he fled Puerto Rico because he feared that he would not receive a fair trial.

Eduardo DeJesus Garcia, special prosecutor for the Puerto Rico Department of Justice, objected at the end of each witnesses' testimony and at the close of Calder's evidence to the form and content of all the evidence presented, as beyond the scope of extradition hearings as provided by the Uniform Criminal Extradition Act, Section 4, codified at III, Iowa Code § 820.20 (1978) and 18 U.S.C. § 3182.

14.

On or about August 10, 1981, Governors Ray and Romero Barcelo met in Atlantic City, New Jersey, to attempt to resolve the matter. Negotiations continued through the fall of 1981.

15.

On or about December 28, 1981, Governor Ray denied the request for extradition of Ronald Calder expressing his concern that the charge was too severe. This despite Governor Romero Barcelo's assurances that plea bargaining would be undertaken as soon as Calder was in Puerto Rican custody and that the charges could be reduced during or after the trial if in fact the evidence failed to substantiate the allegations.

16.

A renewed request for extradition made to newly-elected Governor Branstad immediately after his inauguration was also denied.

First Cause of Action

17.

The plaintiff realleges, as though set forth in full, the allegations contained in Paragraphs 1 through 16.

18.

The failure of the Governor of Iowa to extradite Ronald Calder, upon the proper request of the Governor of Puerto Rico, constitutes a breach of a ministerial duty mandated by Article IV, Section 2 of the United States Constitution and 18 U.S.C. § 3182.

Second Cause of Action

19.

The plaintiff realleges, as though set forth in full, the allegations contained in Paragraphs 1 through 16.

20.

The Governor of Iowa improperly considered extra-Constitutional and extra-statutory matters in denying the request to

extradite Ronald Calder, in violation of the Constitutional and statutory rights of Puerto Rico. The scope of an extradition hearing and the bases upon which extradition must be granted are circumscribed by the Constitution and 18 U.S.C. § 3182. Denial of Puerto Rico's demand, premised as it was on the evidence received at the extradition hearing, violated Puerto Rico's rights under Article VI, Section 2 and 18 U.S.C. § 3182.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays that this Court:

(a) Issue a writ of mandamus directing the Governor to grant the extradition demand made by Puerto Rico and to deliver up to Puerto Rican authorities, Ronald Calder.

(b) Declare and adjudge, pursuant to 18 U.S.C. § 3182, that insofar as an extradition hearing may inquire only as to the identity of the fugitive, his fugitive status, and the formal requirements of the extradition papers, that the ultimate denial of the extradition request based on the June 17 hearing violates Article IV, Section 2 of the United States Constitution and 18 U.S.C. § 3182.

(c) Grant the plaintiff such other further relief as the Court may deem just and proper.

/s/_____

Jerris Leonard
Kathleen Heenan McGuan
Law Office of Jerris Leonard, P.C.
900 17th St., N.W., Suite 1020
Washington, D.C. 20006
(202) 872-1095

Wallace Gonzalez Oliver
Banco de San Juan Tower
654 Munoz Rivera Ave.
Suite 807
San Juan, Puerto Rico 00918
(809) 763-0106

Counsel for Plaintiff

In the United States District Court
for the Southern District of Iowa
Central Division

Commonwealth of Puerto Rico, Plaintiff,	)	
	)	Civil Action No. 84-126-E
vs.	)	
	)	
Terry E. Branstad and the State of Iowa,	)	Motion to Dismiss
Defendants.	)	

COME NOW the defendants, by and through their attorney, and move this Court to dismiss the cause in the above captioned matter for failure to state a claim upon which relief may be granted. In support of said motion, the defendants state:

1. Defendant Terry E. Branstad is Governor of the State of Iowa.

2. The Defendant State of Iowa is a sovereign state of the Union under Article IV, Section 3 of the United States Constitution.

3. The petition seeks a writ of mandamus or other appropriate relief to force Governor Terry E. Branstad to "deliver up" one Ronald Calder pursuant to Article IV, Clause 2 of the United States Constitution and 18 U.S.C. § 3182.

4. Under undisturbed Supreme Court precedent, a federal district court lacks the power to enforce Article IV, Section 3 and any implementing legislation.

WHEREFORE, this action should be dismissed, with costs assessed against the plaintiff.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

/s/ _____
BRENT R. APPEL
Deputy Attorney General
Hoover State Office Building
Des Moines, Iowa 50319
(515) 281-5164

ATTORNEYS FOR DEFENDANTS

Copies to:

Jerris Leonard
Kathleen Heenan McGuan
Law Office of Jerris Leonard, P.C.
900 17th Street, N.W.
Suite 1020
Washington, D.C. 20006

Wallace Gonzalez Oliver
Banco de San Juan Tower
654 Munoz Rivera Avenue
Suite 807
San Juan, Puerto Rico 00918

Charles S. Crook, III
Beving, Swanson & Forrest, P.C.
626 E. Locust Street
Des Moines, Iowa 50309

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa.
on the 4th day of May 1984
/s/Sally Higginbottom

In the United States District Court
for the Southern District of Iowa
Central Division

Commonwealth of Puerto Rico, Plaintiff,	)	
	)	Civil Action No. 84-126-E
vs.	)	
Terry E. Branstad and the State of Iowa,	)	Motion for Leave to Intervene and Joint Motion to Dismiss
Defendants.	)	

COMES NOW, William L. Kutmus on behalf of Ronald Calder and moves to intervene pursuant to Rule 24 of Fed. R. Civ. Pro. 24 and states as follows:

1. On June 17, 1981 an extradition hearing was held requesting the Governor of the State of Iowa to extradite one Ronald Calder to the Commonwealth of Puerto Rico to answer, among other things, a murder charge.

2. The Honorable Robert D. Ray, then Governor of the State of Iowa, refused extradition.

3. A renewed request for extradition was subsequently made to the Honorable Terry E. Branstad, Governor of Iowa, which was also denied.

4. The undersigned attorney represented Mr. Calder with respect to the extradition efforts by the Commonwealth of Puerto Rico.

5. It is the belief that Ronald Calder, applicant through the undersigned attorney, has an interest which is the subject of the above-captioned case and thereby requests the Court leave to intervene.

WHEREFORE, Ronald Calder through his attorney, William L. Kutmus, respectfully requests leave to Intervene in the above-captioned proceeding.

MOTION TO DISMISS

COMES NOW Ronald Calder through his attorney William L. Kutmus (Intervenor) and moves the Court to dismiss the above-captioned case and further states that the said Intervenor joins in the Motion to Dismiss filed by Brent Appel on behalf of Terry E. Branstad and the State of Iowa.

Respectfully submitted.

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail postage prepaid, in envelopes addressed to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on March 6 1984

/s/_____
Janice S. Kirk

KUTMUS AND PENNINGTON, P.C.

By /s/_____
William L. Kutmus
620 Fleming Building
Des Moines, Iowa 50309
(515) 288-339

ORIGINAL FILED

Copies to:

Brent R. Appel
Hoover State Office Bldg.
Des Moines, Iowa 50319

Jerris Leonard
900 17th Street, N.W.
Suite 1020
Washington, D.C. 20006

Wallace G. Oliver
Banco de San Juan Tower
654 Munoz Rivera Avenue
Suite 807
San Juan, Puerto Rico 00918

In the United States District Court
for the Southern District of Iowa
Central Division

Commonwealth of Puerto Rico, Plaintiff,	)	
	)	Civil No. 84-126-E
v.	)	
	)	ORDER
Terry E. Branstad and the State of Iowa, Defendants.	)	

This matter comes before the Court after the filing of the plaintiff's response and the defendants' response to a previous order of this Court. All parties have informed the Court that the matter may be submitted by stipulated record by November 1, 1984. All parties have further agreed that briefs will be filed by December 1, 1984.

For good cause shown,

IT IS THEREFORE HEREBY ORDERED that this matter shall be submitted to the Court on a stipulated record.

IT IS FURTHER HEREBY ORDERED that said record shall be filed by November 1, 1984.

IT IS FURTHER HEREBY ORDERED that briefs shall be filed by December 1, 1984 and that reply briefs to the original filed briefs shall be filed no later than December 12, 1984.

IT IS FURTHER ORDERED that upon the filing of the briefs, this Court will hold a conference call with the parties and a convenient early time for oral argument will then be set.

August 2, 1984.

/s/_____
Donald E. O'Brien, Judge
UNITED STATES DISTRICT COURT

[Exhibit A] (Translation)

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
SUPERIOR COURT
AGUADILLA PART
ACCUSATION

COMPLAINT NO. _____ ACCUSATION NO. _____

DATED _____ ACCUSATION PREPARED AT District Attorney's Office

MADE BY THE PEOPLE OF PUERTO RICO AGAINST

Name	Age	Sex	Soc. Sec. No.	Complete Address	Case No.
1. RONALD M. CALDER JOHNSON	40	M	480-60-7480	Laguna Gardens Cond. Bldg. 4, Apt. 5L-Condado	VP81-11?
2.				Isla Verde, San Juan, PR	
3.					
4.					

For the Crime of FIRST DEGREE MURDER
/ X / Felony /____/ Misdemeanor

Committed at Wing Street, Ramey Base, Aquadilla, PR

on 25 January 1981 at 8:15 pm in the following manner:

The aforementioned accused of this crime, RONALD M. CALDER JOHNSON, on the date and at the time and place shown above, unlawfully, willfully and maliciously, with premeditation and the firm and decided intent of killing unlawfully, showing he had a perverted and malicious heart, on several occasions ran over human being ARMY VILLALBA with a motor vehicle, inflicting serious bodily harm upon her which caused her death moments later.

A DEED CONTRARY TO LAW.

Filed by: /____/ Own Knowledge / X / Through Investigation
/Sgd/ Félix Hernández Pellot

AGT. FELIX HERNANDEZ-PELLOT	AGUADILLA CIC	AGT. #9-1350
Name & Signature of Accuser	Address	Occupation-Position

Sworn to and Subscribed before me in Aguadilla, P.R., on this 4th. day of February, 1981 at 3:55 P.M.

/Sgd/ Benito Díaz Laureano
Name & Signature of Magistrate or Clerk

Names of Witnesses Pathologist, Photographer, (Unreadable)	Age	Complete Address	Examined Under Oath
Caroll Concepción	L	Tabonal Wd.,	Box 1620, Aguada, PR
1. Antonio De Jesus-Gonzalez	L	Ramey Base, Aguadilla	Circle E #331B, X
2. Rosendo Declet-Otero	L	Calvache Wd., Rural Box 1022, Rincón, PR	
3. Luis A. Bravo-Gonzalez	L	Hwy. 459, Box 255, San Antonio, Aguadilla, PR	X
* Myriam Olivera-Pagan	L	Ramey Villas PR	#84, Aguadilla,
4. Felix Hernandez-Pellot #9-1350	L	CIC Aguadilla,	PR
Tomasa Wilson-Jones	L	St. A#104-Aguadilla, PR	Ramey Base,
5. Pedro Rodriguez-Badillo	L	Hwy. 459, Near the Aguadilla, PR	Montaña Wd., Cockfights Ring, X
*(Unreadable) Miller	L		X

1. Information about the defendant:

/__/ Did not appear
/ ✓ / Brought without Arrest Warrant

/__/ Appeared by Summons

/ ✓ / Was accompanied by: Atty. C. Hdez & Atty. J. Colón
/ ✓ / Attorney /__/ Relative /__/ Others
/ ✓ / Legal warnings were made

==========

2. Magistrate's Determination

/__/ There was no probable cause
/ ✓ / The existence of probable cause was determined
/ ✓ / Defendant's arrest was ordered
/__/ Warrant was issued in absentia
/__/ Set free without bail
/ ✓ / Bail was set at $10,000.00 and $4,000.00

2-4-81
Date

/Sgd/ Benito Diáz Laureano
Signature Sup. Ct. Judge

[Exhibit F]

CABLE

April 23, 1981

DET. TURCK
POLK COUNTY P.D.
DES MOINES, IOWA

LA 0770000

REF ONE RONALD M CALDER JOHNSON SUBJECT IS WANTED BY PUERTO RICO AUTHORITIES FOR CHARGES OF FIRST DEGREE MURDER AND ATTEMPTED MURDER WARRANT FOR HIS ARREST ISSUED BY HON SUPERIOR COURT JUDGE JOSE L. CAPELLA, AGUADILLA P.R. ON MARCH 4, 1981 BAIL SET AT $50,000.00 IN CASH.

ADA EDUARDO DE JESUS GARCIA, PHONE 809-725-7082, EXTRADITION UNIT P.R. JUSTICE DEPARTMENT HAS BEEN NOTIFIED AND WILL EXTRADITE. DOCUMENTS WILL FOLLOW BY MAIL.

PLEASE FURNISH US YOUR CORRECT MAILING ADDRESS AND PHONE NUMBER.

/s/_____

AI-IV ARMANDO TAPIA -SUAREZ
COMMANDER EXTRADITION DIVISION
BUREAU CRIMINAL AFFAIRS
PUERTO RICO POLICE DEPARTMENT
809-783-4888

[Exhibit L]

Office of the Governor
STATE CAPITOL
DES MOINES, IOWA

June 3, 1981

The Honorable Carlos Romero Barcelo
Governor of the Commonwealth of Puerto Rico
La Fortaleza
San Juan, Puerto Rico 00901

Dear Governor:

In re: Extradition of RONALD CALDER JOHNSON

Please be advised that William L. Kutmus, Attorney for Mr. Ronald Calder, has requested a hearing in the above matter and Governor Ray has accordingly scheduled an extradition hearing for Wednesday, June 17, 1981, at 2:00 p.m. We are enclosing a copy of the Notice of Hearing.

You will, of course, be represented by Lona Hansen, an Assistant Iowa Attorney General.

In order to give the Iowa Governor's Office a full picture of the facts and circumstances surrounding the offense, we would appreciate your forwarding us any additional facts, reports, statements of witnesses, background information, etc. that do not appear in your requisition papers, but perhaps are contained in your files.

Any assistance you can give us in this regard would be greatly appreciated.

Sincerely,

Jane Mitchell
Extradition Coordinator

Enclosure
cc: Honorable Ralph Skelly Gonzalez, Acting Attorney General
Commonwealth of Puerto Rico
Ms. Lona Hansen, Iowa Attorney General's Office

[Exhibit K]

State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

NOTICE OF EXTRADITION HEARING

IN RE: Extradition of RONALD CALDER JOHNSON

WHEREAS, a request from His Excellency, the Governor of the Commonwealth of Puerto Rico, has been received demanding the return of RONALD CALDER JOHNSON on charges of First Degree Murder and Attempted Murder; and

WHEREAS, the Governor of the State of Iowa may grant an extradition hearing to the accused; and

NOW, THEREFORE, I, Robert D. Ray, Governor of the State of Iowa, do hereby grant a hearing to said accused and the hearing will be held in the Office of the Governor, State Capitol, Des Moines, Iowa, on Wednesday, June 17, 1981, at 2:00 O'clock P.M., and I do hereby appoint Brice Oakley as legal counsel to conduct the hearing and to make recommendations to me.

Dated at Des Moines, Iowa, this third day of June, 1981.

/s/_____
Robert D. Ray, Governor

NOTE: Attorney for fugitive must submit a written memorandum to this office no later than Friday, June 12, 1981, setting out the grounds on which they base their claim for executive clemency.

[Exhibit M]

[Transcript of Iowa hearing; all blanks and missing text appear in original]

Calder hearing, Tape I, side 1 page 1.

Brice Oakley:

_____convene this hearing, an extradition hearing. The Commonwealth of Puerto Rico has requisitioned from Governor of the State of Iowa _____ warrant for the extradition of Ronald Calder or Ronald Calder Johnson. Mr. Calder requested and Governor Ray Granted a hearing by his order of June 3, 1981. He appointed me, Brice Oakley as the hearing officer in this matter.

I think there are a couple of points that we ought to make for those of you who may be unfamiliar with the process. First of all, this is the Governor's hearing. It is not a judicial proceeding. It is a proceeding which is uniquely that of the Governor's office in each of the several states. This one is public. It is public because there was no compelling reason for it to be private based upon the record and the file that had been submitted and prepared for the Governor's office. But again, that is true in this case but would not necessarily be true in other cases.

Extradition hearings are governed first of all by the federal constitution, Article IV as well as certain parallel statutes Iowa's chapter 820 and chapter 425 of the Iowa Administrative Code. Requests for hearings can be made by those who refuse to be extradited and they can request that hearing and it is at the discretion of the Governor as to whether that hearing is granted and in this case Governor Ray did determine that it would be in the best interests _____ of the information to be submitted to him in considering the request _____ that there be such a hearing.

I think it should also be pointed out, however, that these hearings are designed to be informal in the sense that the parties _____ to the issues that are permitted by law _____ into. The Governor determines that which he will receive with regard to those issues and therefore there are no technical rules of evidence. There must be some order to which people speak and more matters of courtesy including putting together an adequate record. You should know that there are not objections and counter-objections with regard to admissibility and that sort of thing.

Calder hearing, Tape 1, side 1

page 2

On the other hand, this hearing is not to be a no-holds barred trial of whether or not Mr. Calder is guilty or innocent of the charges which are pending in Puerto Rico. That is not an issue in this matter. While some of the elements necessary to be considered by the Governor in whether or not to grant a warrant of extradition deal, perhaps, with some of those elements, it is not a trial on that basis nor is there any weighing of evidence or substantial degrees of proof and the like which you ordinarily find in a trial.

There are certain procedural matters with regard to how the Governor and I would like to have this conducted.

First of all, so far as examination of witnesses, there will be some testimony _____ I suspect on both sides. It is our idea that it would be appropriate that the statements that may be made on behalf of one if the other party wishes to ask questions of the party who is testifying that it will be up to the party to determine whether or not they wish to answer those questions. That will be true in your case if Mr. Kutmus wanted to ask you questions that will be at your discretion as whether you wish to answer them as well as whether he wants his client _____ to respond to yours. Also it is not necessary to repeat those matters which have been submitted as a matter of affidavit or other matters which were already considered _____ this record. Either you or counsel on the behalf of Mr. Calder _____ submit though I appreciate the necessity of touching on some of those duplication _____.

The hearing is being recorded for my purposes and for the purposes of the Governor in order to insure that all of the comments and the arguments made in support of and in opposition to this request are accurately reflected and key? examples of the record _____ examples are _____ recommendations _____.

Calder hearing, Tape 1, side 1

page 3

As far as our procedure we will follow, we will begin with Miss Lona Hansen who is the assistant attorney general for extradition affairs in the attorney general's office who will first introduce all of you that are participants. Secondly, she will _____ capacity of representing the State of Iowa will confirm or amend her previous communications to the Governor's office _____ that the papers _____ are in order as to form. We have previously received notice that they were but she should review that.

Secondly, Mr. Kutmus is chief counsel on behalf of Mr. Calder. I would appreciate it if you would cover several matters. One if you would confirm or deny whether or not the accused is the same person named in the requisition papers. That is a matter of inquiry.

Secondly, whether or not the accused does or does not meet the requirements of being a fugitive from justice under chapter ____ as to whether that is an issue and finally, any other matters concerning the nature of the issues that can be brought before the governor _____ on this matter.

Understanding that that is rather far-ranging it is my intention that they be permitted to be thorough _____ prepared but again understanding that we are not to determine whether or not your client is guilty or innocent of the charges as filed but only as those issues may pertain to what we have to consider.

After you have concluded, representatives from Puerto Rico will have an opportunity to make such statements and submit any evidence and whatever observations you would like to pursue in rebutting the presentations of counsel for Mr. Calder.

At the conclusion of that both of you should then make closing remarks and if the nature of the issues are such that I feel that it would be useful for both of you to submit written briefs in support of or in opposition to any of the legal issues that are raised, I will indicate at the conclusion whether or not that would be appropriate and you might also determine in your own mind if you wish to do that.

Calder hearing, Tape 1, side 1

page 4

With me is Jane Mitchell who is the Governor's secretary for extradition matters. She will be assisting us in the conduct of this hearing. So, if there are no questions concerning that, I would like you to proceed _____.

Lona Hansen
As Mr. Oakley said, my name is lona Hansen. I am an assistant Attorney General. Accompanying me from the attorney general's office is Richard _____. The gentlemen representing the Commonwealth of Puerto Rico are _____, the district attorney and _____, special prosecutor for the Department of Justice of the Commonwealth of Puerto Rico.

On June 2

(Brice: You'll have to speak up, we can't hear and also, I think we should identify the counsel on behalf of Mr. Calder.
Lona: Mr. William Kutmus, representing Mr. Calder. I do not know your co-counsel, however.
Mr. Kutmus: Mark Pennington.
Lona: Mark Pennington and
Kutmus: He is co-counsel.
Lona: He is co-counsel for Mr. Calder. On May 28, 1981, Jane Mitchell submitted the papers to me that were sent by the commonwealth of Puerto Rico requesting Governor Ray to issue his arrest warrant to allow the arrest of Mr. Calder and transportation back to Puerto Rico. On the second of June, 1981, I sent Jane Mitchell a letter saying I had examined the application for requisition and the papers attached and I found it approved as to form. I have reexamined the papers and I believe they are complying with the requirements of Chapter 820 of the Uniform Criminal Extradition Act as adopted by _____.

Calder hearing, Tape 1, side 1

page 4

Brice: That being the case _____ Mr. Kutmus would you like to proceed. If I may, I think that it would be helpful to all concerned that if at any time there is any difficulty in understanding

page 5

and you wish to have something repeated or clarified — I don't believe we have any language problems, but if in the event that we do please indicate and I am sure counsel and all the parties understand that and that would be just fine. Mr. Kutmus.
Kutmus: Yes, I want to first address to the area or the statements made by the attorney general's representative.
Number one, just for a point of clarification that I am not __ over this. Apparently in Puerto Rico they do include in with the person's name the name of the mothers the name of the mother. In this case it is Johnson so it is Ronald Calder Johnson. We have no quarrel with that. We also have no quarrel with the fact that he is a fugitive. I sent letters to the prosecutor _____ of Puerto Rico indicating that we intend to fight extradition. However, I would like to point out a document that I take issue with and I would quarrel that it is not in order _____ the Iowa statutes regarding extradition. That document that cites? the United States of America, the president of the United States, the people of Puerto Rico v. Ronald Calder Johnson and a? sworn statement by Rosa Marrero. Now I want to make something perfectly clear, Mr. Hearing officer, I am not disputing the contents that were recited in this particular document. It's not a jury trial and we know that in all litigation there are two sides to every story. However, I would like to point out the last paragraph of that document. The district attorney, I don't care who he is, nonetheless the district attorney asks of this witness "Do you have anything else regarding this matter" as hearing officers do. The witness says that this is the same sworn statement that I gave before district attorney Juan (?) Hose

Calder Hearing. Tape 1, side 1

page 5

January 28, 1981 and I want you to — ah — and I want to note for your consideration that that particular document the exhibit that I am referring to is a — has been sworn to and subscribed on May 14, 1981. We have a witness for your consideration who will state that that statement that was sworn to on May 14, 1981 is not the original statement. That that statement has been altered. It is completely diametrically the opposite of what was said previously and I just want to point that out so I would object to

page 6

this as to its form in the sense that it purports to be the same statement _____. So I think that is as far as the Iowa statute Mr. Hearing Officer it is my position that the Commonwealth of Puerto Rico has not complied with the proper documents to be submitted. Obviously, Mr. Hearing Officer, there are issues in this case that ____ on fairness as far as Ron Calder is concerned. I have witnesses that I would like to present to you under oath who will essentially ____ my number one political client in Puerto Rico as it relates to North American, white citizens — the hostilities that exist between the Puerto Rican citizens and _____ American citizens as these hostilities presently between the Puerto Ricans and the North American white citizen. My witnesses I would hope would support the conclusion that if Mr. Calder is sent back to the Commonwealth of Puerto Rico that, number one, his life will be in jeopardy _____ a death warrant, number 2, he will not receive a fair trial whatsoever if he is sent back and number 3, he will be found guilty of murder in the first degree and given a life sentence presumably to die in the penitentiary. These are conclusions that I would like to _____ my co-counsel, Mark Pennington, attorney at law, State of Iowa, an officer of the court who has been present in Puerto Rico on several occasions.

Calder Hearing. Tape 1, side 1

page 6

Unknown voice, possibly Brice: Mark is going to testify? Ok, raise your right hand. Do you solomly swear that the testimony you are about to give is the whole truth and nothing but the truth, so help you, God?
PENNINGTON: Yes, I do.
Kutmus: For the record, will you state your name.
Pennington: Mark Pennington.
Kutmus: And what is your occupation?
Pennington: I am an attorney at law licensed to practice in the state of Iowa.
Kutmus: How long have you been so licensed?
Penington: [*sic*] Six years.

page 8

Aguadelia who was not familiar with the events concerning Ron Calder on January 25, 1981.
Kutmus: What about the city of San Juan?
Pennington: And I might say the same for San Juan which even thought [*sic*] it is on the other side of the island there was no one I talked to that had not heard or read something about the Ron Calder situation.
Kutmus: From your own personal knowledge since there has been news media coverage as well as TV coverage concerning the accident that occurred in January 1981.
Pennington: There has been extensive news media coverage of the event not only at the time of Mr. Calder's initial arrest but also at the time he left the island and came home back in Iowa.
Kutmus: Mr. Pennington, did you have an opportunity to discuss the matters of _____ fairness to Ron Calder with any particular judge? Copieya (?) for example?
Pennington: On March 31, 1981 I did have a conversation with the judge that we were told would handle the case. It was a judge Copeya (?)

Calder Hearing. Tape 1, side 1

page 8

Kutmus: Did he indicate whether or not _____

Did he indicate that he would be willing to grant a change of venue in the event that extradition was granted?
Pennington: Judge Copieya _____ explained that the way that the matter or prejudicial publicity or racial prejudice against Mr. Calder would be handled would be in the proper manner. That he would question, personally, those jurors who were selected to hear the case and ask them whether or not they felt any prejudice toward Mr. Calder and that would be the extent.
Kutmus: Were the attorneys themselves permitted to involve themselves in voir dire?
Pennington: He explained that he would determine whether or not there was any prejudice existing in the jurors' minds toward Mr. Calder.

page 9

Kutmus: Did you also talk _____ prosecutor that at one time was in charge of this case?
Pennington: Yes, I did.
Kutmus: Is he present in the court room?
Pennington: Yes, I spoke with Mr. Romain on March 31, 1981 in his office in Aguadela Puerto Rico in the courthouse.
Kutmus: Was I present?
Pennington: You were present, also, Mr. Kutmus.
Kutmus: Did you touch upon the issue of fairness as far as Ron Calder's trial was concerned? _____
Pennington: Yes. After my first trip and _____ then after some conversation we had with some local people by the time we arrived in Mr. Romain's office we were very concerned about the level of publicity and the possible prejudice against our client. We expressed this to Mr. Romain.

Calder Hearing. Tape 1, side 1

page 9

Kutmus: What was his view?
Pennington: Mr. Romain was quite open and honest with us and Mr. Romain indicated to us based on the publicity this case had received due to the fact it was an American white — white main-land American and also involved a pregnant woman that he did not feel that Mr. Calder would receive a fair trial — not only in Aguadellia but anywhere on the island of Puerto Rico.
Kutmus: Did he also state that this case was probably more celeb _____ case on the island itself?
Pennington: Yes, he did. He did mention that although normally as District Attorney he would be responsible for the prosecution of the case but due to some of the unique political considerations of the case that it had been taken out of his hands and was given to somebody from the ministry of justice. Also that he and the magestrate were the subject of a demonstration by some law students on the island of puerto rico who were condemning both him and the magistrate for allowing the bond to be set so low which resulted in Mr. Calder fleeing the island.

page 10

Kutmus: Mr. Hearing Officer, This is a matter of background now. I would like to say that initially, and this could be a matter of judicial Notice(?) even in a court of law. The accident occurred on January 25, 1981 _____ ultimate the death of the pregnant lady. I won't _____ the facts submitted by both sides. Initially, Mr. Hearing Officer, witnesses were presented before a judge in Aguadellia Puerto Rico. That was the locus where the incident took place. At that time after a consideration of various witnesses the judge determined that at best a prima facie case of involuntary manslaughter by the use of a vehicle would be the proper charge. A bond _____ a bond _____ at that time was _____ at (?) let (?) the committee expected

Calder Hearing. Tape 1, side 1

page 10

Ron Calder to be released set bond in the amount of $5 thousand. This may not be totally accurate but I think he posted about $500 cash bond to represent that $5,000 and he was released. Mr. Pennington has just stated that the prosecutor admitted that — to us — that that original judge was the subject of an investigation _____ here jargon for the North American White _____ was given such a break charge so low in addition the bond of $500 cash so he was under an investigation also as the prosecutor said he was the subject of this kind of thing and so, I guess, I just state this to get the background of what the _____ the exchange of conversations that we had with the prosecutor _____ this is just a point of clarification. So it is my understanding that what you — (interrupted by —)
Brice (?) What you have just said is not inconsistent in any way with the affidavits, is that right?
Kutmus: That is correct.
Brice: OK.

page 11

Kutmus: Now, were there any other statements made by the not only gentleman prosecutor Romain that is present today and other members of his staff — were there any other statements made concerning Calder's safety?
Pennington: Mr. Romain indicated that the reason the bond was so low so that he was _____ was low, because he was of the opinion that should Mr. Calder been incarcerated on that evening that he would have been killed.
Kutmus: Do you have any newspaper clippings to the extent that at least _____ Star a Puerto Rican newspaper that is written in English, such a communication was made to the San Juan Star.
Pennington: I have a February 6, 1981, edition of the San Juan Star — it does not identify the district attorney whether he states that an _____ district attorney told United Press International that Calder was freed on bail for his own protec-

Calder Hearing. Tape 1, side 1

page 11

tion under fear that he might be killed in the _____ District Jail because of the circumstances of the case.
Kutmus: And those circumstances that Mr. Romain is indicating to you are prejudicial — go ahead
Pennington: The circumstances of the case being the fact that it was a government employee of the United States that was involved in the accident that took the life of a pregnant woman.
Kutmus: Are there any comments about the small _____ that broke through the Puerto Ricans that expressly want it to become in effect of the United States.
Pennington: Mr. Kutmus are you referring now to the article?
Kutmus: No, I am asking about the driver.
Pennington: Based on conversations with other people on the isle of Puerto Rico there just does, although a very small minority; that do desire independence from the United States — and that they picked on this case as an example of the constant justice that Puerto Ricans receive — based on my conversations with some other individuals in Puerto Rico it is felt that certain inapendestos have

page 12

holds on this case that, for example, while American receives special treatment and also the media made known the fact that he was allowed to leave the island with permission of the FAA after they learned that he was in fact _____.
Kutmus Did the local prosecutor state to you whether or not he in fact wears a bullet proof vest or anything of that nature.
Pennington: Yes he stated that he did.
Kutmus: Did he say for what reason — or did you make any estimates as a result of _____
Pennington: I certainly was concerned about the stability of that District having been a prosecutor myself, I know of no one who has ever ever worn a bullet proof vest. The reason

Calder Hearing. Tape 1, side 1

page 12

it came out was on the day we arrived in San Juan National Airport there was an attempted assassination of President Reagan. Naturally, the very next morning in our meeting with Mr. Romain we discussed that assassination attempt, naturally both of us _____ and he mentioned that he didn't understand why the President wore bullet proof vests.
Kutmus: So what you made from this is that things were pretty hot after _____
Pennington: Well it was not based solely on that comment but that coupled with what had been told me why Walter Kooker who is the senior FAA official on the island of Puerto Rico — certainly represented more of a stronghold for the _____ than other areas beyond and individuals expressed concern that any low caliber trial — Calder would without a deal would certainly get a _____.
Kutmus: Did the office of the _____ Puerto Rican justice as it relates to Americans or North Americans employees of the Federal Government — whether there is _____.
Pennington: Calder expressed his opinion that Ron Calder or any other employee of the federal government in Puerto Rico in his opinion could not receive a fair trial, not even in San Juan.

page 13

Kutmus: So Mr. Pennington as co-counsel and admittedly have you reached any conclusions as to your separate visits to Puerto Rico about the fairness or non-fairness of trials in Puerto Rico.
Pennington: Yes, I have, based on my conversations both in San Juan and the _____ area. I never talked to anybody that had not heard about this case and everyone who I had talked to certainly had expressed their opinion that Ron Calder should be tried in Puerto Rico could not receive a fair trial. The fact that he is a white American man _____ the island of Puerto Rico. And that is my opinion that he could not receive a fair trial in the Commonwealth of Puerto Rico.

Calder Hearing. Tape 1, side 1

page 13

Kutmus: Do you know whether or not that our office under my signature submitted on April 8, 1981, a letter to Romain stating that it was our opinion that Mr. Calder could not receive a fair trial in Puerto Rico and his life was in jeopardy in Puerto Rico and that we would resist any extradition efforts made on behalf of Calder. Pennington: After returned to the mainland and got some counsel with our client we did notify Mr. Romain our attention as to why our intention to resist extradition back to the isle of Puerto Rico.
Kutmus: And also in that letter did we conclude by saying as an officer of the court I can assure you that upon receipt of the proper documents submitted to the proper authorities will begin the extradition process.
Pennington: That is what we said and in fact what did occur.
Kutmus: I would like to introduce this letter into evidence for the Governor's consideration. That the courts be received — do you have a copy of that letter.
Brice? Oh, let me ask a couple of questions first, if I may. I would like a copy of the San Juan Star Article but we can have one made — do you also want to get a copy of that letter — I assume you all have access to copy machine. O.K. we'll see that you have a copy of it. I would like to know when you visited with people in Puerto Rico, did you talk to Puerto Ricans or did you talk to Americans — what was the nature of the people who said _____ San Juan.

page 14

Pennington: I did speak with some Americans who were employed in the isle of Puerto Rico. I did speak to several Puerto Rican residents. I did not identify myself as to why I was asking or did not identify myself, Mr. Counselor, to Mr. Calder. Naturally, I was limited in that I could not speak Spanish so could only talk to those who were bilingual. I did speak to employees, people who were working wherever I may be at,

Calder Hearing Tape 1, Side 1

page 14

anybody that I would run across, I would ask them if they had heard about the accident — what did they think. Court House employees, people who worked in the clerk's office what had they heard about it — how did they feel about it. They feel that this guy was going to get a fair chance there would be a trial in Armedea.
Brice: Gentlemen, do you wish to ask any questions at this time you can reserve that if you wish to and you wish to submit to any examination from representatives from Puerto Rico. Do you wish to ask questions now or do you want to wait until further opportunity?

Don't see the point in asking Mr. Pennington any questions.

Brice: Thank you, you may proceed Mr. Kutmus.
Kutmus: My next witness is directly behind me, Gene Miller is his name — could we push the chair to the Counselor's table and have him sit — of course. Oh, let me stand and you sit in my chair.

For the records, will you state your name.
Miller: Gene Miller
Kutmus: I want you to speak loud and clear before _____ Puerto Rico as well as the press.
?____ As due reminder that I do have his affadavit and as do accounts of Puerto Rico so in the interests of _____ we need to duplicate those materials that are in that — that relate to matters that are included.
Kutmus: Again, your name.
Miller: Gene Miller
Kutmus: Alright, good. How old are you Mr. Miller?

page 15

Miller: Thirty seven
Kutmus: Are you married?
Miller: Married

Calder Hearing Tape 1, Side 1

page 15

Kutmus: How many kids?
Miller:
Kutmus: Where do you reside today?
Miller: I'd rather not say
Kutmus: What state are you from?
Miller: Florida
Kutmus: Now Mr. Miller are you acquainted with Mr. Ron Calder
Miller: Yes I am
Kutmus: When did you first make his acquaintance?
Miller: My wife was also air traffic controller and we were working in San Juan.
Kutmus: Is that San Juan, Puerto Rico?
Miller: Yes sir
Kutmus: What is your occupation?
Miller: _____
Kutmus: In _____ were you a
Miller: Yes, I was Director of operations for a small commuter airlines in San Juan — Southern National
Kutmus: O.K. you are an airline pilot for a commuter airlines at least in January?
Miller: Correct
Kutmus: Are you now living or employed with any commuter airlines in Porto Rico?
Miller: No, I am not
Kutmus: Now Mr. Miller lets direct your attention to January 25 or about January 25, 1981 and let me ask you whether or not you were with Ron Calder about 8 o'clock.
Miller: Yes, I was with Ron
Kutmus: What was the purpose of being together.
Miller: Since we originally lived in San Juan and my wife was transferred to the _____ airport on the west end of the island

Calder Hearing Tape 1, Side 1

page 16

which is about 20 miles from _____ since she was with friends they drove up on a different day _____
Kutmus: Your wife is a _____, O.K. then what happened?
Miller: Before we started we decided to go down to the _____ to get a couple of packs of cigarettes so we wouldn't have to miss any of the game.
Kutmus: O.K. now that's a carry-out place at the grocery store?
Miller: Yes, it's about a quarter of a mile from where we
Kutmus: And who was driving at that time?
Miller: Ron was.
Kutmus: And were you a passenger?
Miller: Yes I was
Kutmus: And you have submitted an affadavit outlining the facts that you saw on that day, have you not.
Miller: Yes I have
Kutmus: I'll touch on it a little bit if I can, Mr. Oakley. There was a pedestrian that was struck by a vehicle driven by Ron Calder.
Miller: Yes there was. My personal opinion of the whole thing — it has been blown up out of proportions — the witnesses testified _____
Kutmus: Now let me ask you. After the accident had occurred, did you and Mr. Calder together with the police force and all of the _____ go before a magistrate or a judge.
Miller: Yes we did. That very night they took us before a judge.
Kutmus: Now I want you tell — be very thorough about this. I want you to tell the circumstances surrounding your testimony as well as the other person's testimony before the district attorney or assistant attorney and the judge.
Miller: O.K. Number 1 There were approximately 4 witnesses including myself. Number 1, I was the only witness that was actually sworn in.
Kutmus: The other witnesses were not sworn in?
Miller: No they were not.
Kutmus: Was there a _____ in the _____ courthouse?

Calder Hearing Tape 1, Side 1

page 17

Miller: _____ They told us to stay away from all doors and windows because of situations that people were getting wild outside but at the court itself in Acquidilla they had armed guards at doors because they were fearful _____
Kutmus: Now the two prosecutors from Puerto Rico — were any of those prosecutors present that first meeting?
Miller: _____
Kutmus: Now did Mr. Calder at that time have an attorney?
Miller: Carlos Fernandez
Kutmus: Did he speak English and Spanish
Miller: Fluent English and Spanish
Kutmus: Now did you testify under oath?
Miller: I testified under oath in English.
Kutmus: And what was the substance of your testimony?
Miller:
Kutmus: How long did it take for you to recite your version of that
Miller: Approximately 5-10 minutes.
Kutmus: At that time were you a witness that was asked to testify on behalf of the _____
Miller: Yes I was there as a witness
Kutmus: Did the other individuals testify also.
Miller: Yes they did — they testified speaking Spanish and
Kutmus: Was it translated to you by Carlos
Miller: After it was over
Kutmus: And what were you told the substance of the testimony of the other three witnesses was?
Miller: After the hearing I asked Carlos and he said basically the same as I had testified at the time.
Kutmus: Basically the same as you had testified.
Miller: The people that testified right after it happened told the same story
Kutmus: And that story —
Brice: I do want to interrupt — I didn't swear in Mr. Miller and I am going to do that at this point. Mr. Miller I am going ask both

Calder Hearing Tape 1, Side 1

page 18

as to your testimony that you have given here previously and the testimony that you are about to give — will you raise your right hand. Do you solemnly swear that the testimony you have given and that which you will hereafter give is and will be the truth and nothing but the truth, so help you God?
Miller: Yes, I do.
Oakley: Thank you, Please be seated.
_____ Mr. Oakley, if we may be permitted we would like to express an objection for the record of this proceeding.

Your objection may be reserved and your timeliness of it will not be an issue in this matter so if you want to make those objections as far as proceeding further on it or whether this is applicable to the issues, you can do that at the conclusion of this case. It will be no prejudice to you, because I am going to permit them to go ahead and present this testimony.
Kutmus: At the beginning of this proceeding wherein I objected to a particular document submitted to the Governor — a sworn statement a statement dated May 14, 1981 but it _____ to a statement she had made at an earlier date. You have had an opportunity to review that statement, have you not?
Miller: Yes, I have.
Kutmus: Is there a difference between statement of May 1981 and the statement that you understood at the time that the witness testified before a judge and also an attorney.
Miller: No. Number 1 the testimony given was not as it all happened, number 2 everybody was speaking in Spanish so the only thing I had to go on was what Carlos told me, he said that he agreed basically on what was said, but later on
Kutmus: All right now, what did the — what did the original judge — what did he identify as a charge against Mr. Calder.
Miller: At the Police station, before we went to the courthouse that night the District Attorney said he was going to _____

Calder Hearing Tape 1, Side 1

page 19

After he got up in front of the judge, I testified the rest of the witnesses testified and the judge says no _____ feel it was murder, it was more like _____
Kutmus: Was that the charge against Ron Calder?
Miller: That was the charge
Kutmus: Were you charged with any offense at that time.
Miller: No, I was not.
Kutmus: Were you subsequently asked to go to _____ at another hearing?
Miller: At the second hearing
Kutmus: And approximately, what date was that? Was it several days or a week or two weeks later?
Miller: Roughly two weeks later.
Kutmus: Now you went to the courthouse again
Miller: Yes we did.
Kutmus: Did anything unusual happen the second time? First of all what was the atmosphere like?
Miller: Again, there were armed guards — they had two off-duty policemen meet us outside of town to escort Ron in because they were afraid of something might happen. We got to the courthouse before we could even get out of the elevators — the police stepped out into the hallways to check the hallways and to make sure there was no one around with weapons. After we got into the hearing itself, Lo, and behold I was surprised that I was being charged on aggravated assault.
Kutmus: And who informed you that you were now being charged?
Miller: Carlos told me that he found out — I guess the District Attorney told him.
Kutmus: And were you then told that this was an effort on the part of _____ Puerto Rico to discredit your honest testimony?
Miller: Well, I couldn't figure out why I was being charged and as Carlos said — Why am I being charged — I am the one that originally got hit? And he said _____ the attorney's

Calder Hearing Tape 1, Side 1

page 20

part to discredit my testimony.

Tape 1, Side 2

They said that if I — whatever I said at that point — it could be held against me and I had the option to either testify or not testify. I testified anyway — the only thing I had to do was to tell the truth, which I did.
Kutmus: And were you then arrested or at least processed and then
Miller: They — I signed some papers — everything was in Spanish something to do with the charges
Kutmus: Was there a _____ place or were you allowed to go out on your own cognizance.
Miller: _____
Brice: You were under bond?
Miller: No
Brice: You were not
Miller: Nope
Kutmus: Subsequent to that, did Mr. Calder, was he then charged with first degree murder.
Miller: Then the _____ charge with first degree murder and they also upped his bond.
Kutmus: I think the record shows that the bond was _____
Brice: It shows $300,000
Kutmus: It was lower than that
Brice: $50,000
Kutmus: At that time — now did you seek counsel at that time?
Miller: The only counsel we had was Carlos —
Kutmus: He is a Puerto Rican lawyer — is he not? Did he give you any advice about the wrong charge?
Miller: He really wouldn't comment one way or the other except that there was a ploy in the D.A.'s side to discredit myself.

Calder Hearing Tape 1, Side 2

page 21

Kutmus: Did he say why don't you stick around and fight it?
Miller: No he suggested that we leave the island.
Kutmus: Why?
Miller: There were numerous threatening phone calls to the control tower where my wife worked beings she was also a government employee
Kutmus: Were there any remarks for trading a wife for a wife?
Miller: Right after the accident, I drove _____ car through the crowd to the police station to get it off the street, several people were shouting "gringos will not leave the island alive" Various rumors around the airport — it is a law impressed on them that if the law will take care of it it could be _____. My wife was a sting of nerves — she could not work — we finally agreed that she should quit the FAA and leave the island — would be a better person — would be a better life to keep alive than to be dealing with such an atmosphere.
Kutmus: Now at the second hearing did you have a Spanish speaking Puerto Rican interpreter.
Miller: They did not furnish us an interpreter — it was a gentleman who worked for the FAA who was Puerto Rican who came with us from San Juan to interpret the proceedings at the hearing.
Kutmus: And what were his comments.
Miller: It was his comments also that changed my mind about staying on the island. As we were leaving, he said "I am totally ashamed to call myself a Puerto Rican after the proceedings that you have seen in the courtroom."
Kutmus: This is what he told you?
Miller: That is what he told us. He said this in front of myself Ron Calder, _____ and Carlos.
Kutmus: Did anyone reveal to you that _____ custom can be purchased?
Miller: There are so many things that came up — several people said "well if you want a witness, all you have to do is buy one." I warned Carlos before he dropped us off that night — he says you know it might be cheaper if you spent $500 _____

Calder Hearing Tape 1, Side 2

page 22

Kutmus: An approximately, when did you leave the island of Puerto Rico?
Miller: It was roughly four days after the second hearing. My wife had already left, my wife and son to get back to the States to my brother's house.
Kutmus: Did you also mention to Mr. Calder that you were leaving the island.
Miller: Yes I did.
Kutmus: And what _____
Miller: Well the reason I left was to take care of some problems at home — my son in a different school and I think it was agreed by everybody that we were fighting a lost cause here — why stick around.
Kutmus: Now Mr. Miller, may I ask you this question now. Your statement that you submitted as a sworn statement to Mr. Oakley for the Governor's consideration. Virtually acquits or exonerates Mr. Calder from any current liability — do you understand that — I am not quite into the facts. If the Governor of the State of Iowa should honor the request of the —
Puerto Rico to extradite Ron Calder back to Acquidilla, would you be willing to go back to that island and testify in behalf of Ron Calder?
Miller: Knowing what I know now, I don't think I would.
Kutmus: Why wouldn't you? Were you given any advise by anyone?
Miller: He sought counsel when we got back to the States
Kutmus: Who is we?
Miller: Mr. Hall — an attorney — and he seemed to be familiar with the Puerto Rican system — deals with _____ do not go back in certain cases.
Kutmus: Did he give you any further explanation.
Miller: He said you won't get a fair trial — They're liable to involve you
Voice murder charge against you
Miller: Murder charge — it seemed sort of strange before we left also they were going to have a third hearing or so the rumor has it

Calder Hearing Tape 1, Side 2

page 23

and try to _____ me and to avail myself and I told the ____ this and he said just forget about _____

Kutmus: Mr. Miller would you fear for your life if you returned to the island of Puerto Rico?

Miller: I would fear for my life in matter of fact I fear for my family's life when they find out where we live now.

Kutmus: What about Mr. Calder?

Miller: I wouldn't think that he would have a chance, any kind of a chance if he returned. After what I have seen down there I was thinking that if the system had been in the States — but more trust in the system — it would be wiped out. There is no way that _____

Kutmus: Is there possibly

Miller: We were over there on the 14, 15, 16 months

Kutmus: Is there a local dispute or an ethnic practice that eminates from the Puerto Ricans against North Americans — whites?

Miller: I feel that _____ disloyal — We originally moved there to live there permanently — _____

Kutmus: There is hostility that exists between two nationalities?

Miller: I would say so

Kutmus: Was it made known in this particular case?

Miller: I would say yes.

Kutmus: You have had some communication with the _____ as of this date are you aware of continuing pre-trial publicity about the Calder incident in January.

Miller: We have two or three people that we talk to and they say yes, there is still the same turmoil over there and why they are pushing so badly I really don't know. I testified the same at both hearings it seemed that nobody would listen to what we had to say. They listened to whatever they wanted to hear and it made no difference whether you were under oath or not.

Calder Hearing Tape 1, Side 2

page 24

Brice: Mr. Miller or Mr. Kutmus would it be your understanding that Mr. Miller is charged with an offense that would also be subject to extradition?
Voice: It is not very clear at this point but it is my understanding that he is not charged with felony — I have been told that there is _____ the same rumors that I heard about Bobbie Knight
Brice: When you were extradition act, was it not?
Miller: Right.
Brice: Do you gentlemen have any questions
Voice: I want to express my objection again — it is part of the testimony that I think would be completely useless _____ attempt to cross-examine this witness. And then just for your information he is charged with — charged with aggravated assault based on the _____ witnesses who testified that two men hit him once — it was a misdemeanor punishable by a fine not to exceed $500 or imprisoned not to exceed 6 months. And Puerto Rico never extradites for dismeanors.
Voice: Are there any other questions?

I would like to call the defendant, respondent, fugitive or whatever he is, Ron Calder. Mr. Oakley will swear you in.
Brice: Raise your right hand. The testimony you are about to give will be the whole truth and nothing but the truth, so help you God.
Calder: I do.
Kutmus: You will have to speak Mr. Calder. For the record, state your name.
Calder: Ronald Morris Calder
Kutmus: What is your age?
Calder: 41
Kutmus: Are you married?
Calder: Yes

Calder Hearing Tape 1, Side 2

page 25

Kutmus: And do you have children?
Calder: Yes
Kutmus: How many children
Calder: two
Kutmus: you are presently living in Des Moines, Iowa?
Calder: That is right
Kutmus: What is your occupation? Presently.
Calder: Air traffic controller.
Kutmus: Are you one of those persons that assists airplanes in take-off and landing and that sort of thing.
Calder: yes
Kutmus: And where do you work
Calder: I work at the Des Moines Municipal Airport
Kutmus: Are you a government or U.S. government employee?
Calder: Yes I am
Kutmus: And who is your Agency?
Calder: Federal Aviation Administration
Kutmus: And what is your GS rating?
Calder: I'm GS 12
Kutmus: Would that be considered an officer type if that were translated
Calder: I believe the same as a major _____ I'm not sure.
Kutmus: How long have you worked for the federal government?
Calder: Almost 15 years.
Kutmus: You have never been in trouble before
Calder: No I haven't
Kutmus: Have you ever been in the armed forces?
Calder: Yes I have
Kutmus: What branch
Calder: Army
Kutmus: What was your discharge
Calder: Honorable
Kutmus: And when were you honorably discharged?
Calder: 1965

Calder Hearing Tape 1, Side 2

page 26

Kutmus: What is your education?
Calder: High school and semester in college.
Kutmus: Are you a local or native Iowan?
Calder: Yes I am
Kutmus: And where were you born?
Calder: Jefferson, Iowa
Kutmus: Do your parents live here in Iowa
Calder: Yes they do
Kutmus: Directing your attention to 1980 - 1981 - did you execute a contract with the FAA being an air traffic control employee in San Juan, Puerto Rico.
Calder: Yes — I was in San Juan in 1979
Kutmus: In 1979 your job description was what?
Calder: Air Traffic Controller
Kutmus: Where was Tower
Calder: in San Juan, Puerto Rico
Kutmus: You were present, were you not when Mr. Miller had testified is that correct?
Calder: Yes
Kutmus: Save of extradition — would you totally agree with the answers to the questions that I _____ to Mr. Miller — would your answers be substantially the same.
Calder: Yes they would
Kutmus: You have given a sworn statement, have you not — submitted it to the hearing officer, Mr. Oakley, for the Governor's consideration outlying the facts that occurred in January — Were you in fear of your life after the incident when you were taken to the police station?
Calder: Yes
Kutmus: Was there an
Calder:

. . . . . .

Calder Hearing Tape 1, Side 2

page 28

by the name of Phillip Martin but that is not his correct name. I would just like to refer to that — take it for what it is worth if I can. The rules of evidence are lax, I understand, — has there been a person with a suit named Phillip Martin — has he communicated with you periodically about your case.
Calder: Yes, he has had several contacts with me
Kutmus: Are you aware of the letters that he sent to me and the long distance phone calls to me?
Calder: Yes I am
Kutmus: Now why don't you tell Mr. Oakley about some of the conversations, some of the written words about buying, paying off the witnesses and particularly the testimony that was to be used for this extradition, as you understood.
Calder: In this letter that I saw, stated that they knew that I was not guilty of the charges and they were concerned _____ finally after contact with him they found out that the situation was — one of the witnesses supposedly has stated that he __ by the Puerto Rican Constitution.
Kutmus: You are not _____ it is Mr. _____
Calder: I don't know who or why, but he said that he supposedly had been pressured to testify as he has testified and for proper sums of money he would be willing to change that testimony

> And that is the communication that I received also.
> Yes sir.
> Is that fairly consistent with your understanding of Puerto Rican justice

as it relates to you.
Calder: Any time that I was in Puerto Rico, which was about 20 months I heard numerous occasions where supposedly witnesses had been bought or had been paid supposedly — I don't know if this is true — it may just be hearsay but people have told me of this of who I have respect and I assume they know what they are talking about.

Calder Hearing Tape 1, Side 2

page 29

Kutmus: Now you left the island of Puerto Rico, did you not.
Calder: Yes, I did
Kutmus: And you failed to comply with apparently a court order to appear in the court of justice
Calder: Yes, I did
Kutmus: Why
Calder: That was a hard decision — whether to leave or whether to stay. I knew if I left after the second hearing there really didn't look like there was a chance to get a fair trial

Kutmus: What about the fact that Mr. Miller went out
Calder: I talked to him and more or less _____
I was afraid if I went through the trial the way things had been — the way they had done things previously, let me refer back to the second hearing — I was called on an afternoon, I think it was Wednesday afternoon or Tuesday afternoon I don't remember the day now, but I was told at that time to be there the next day at 3:00 and I said what should I do and my lawyer told me 5 to 8 thousand dollars —
Voice: That is short notice — I can agree with you.
Calder: I was afraid that the next one if they raised the bond so high — then I would have to go to jail.
Voice: What would happen to you in jail
Calder: Well I don't know _____
Voice: In other words you feel that you would be killed.
Calder: Yes, I am afraid I would
Kutmus: Were you also aware that Mr. Miller said that he would not come back for fear of his own safety.
Calder: Yes
Kutmus: _____
Calder: They had to have something I didn't have any one to testify on my side of the case.

Calder Hearing Tape 1, Side 2

page 30

Brice: How were you able to leave Puerto Rico — that is did you leave under your name of Ron Calder
Calder: Yes — I bought a plane ticket
Brice: You bought a plane ticket and left
Calder Yes and I was not too sure that I would be able to do because _____ the reasoning behind this was that I had been told by people that there was a watchout for my name and if there was a ticket purchased in my name that they were to be notified and I would be arrested on the spot.
Brice: Do you gentlemen have any questions that you wish to ask?

_____ will attempt to make them useless and all this testimony will be self serving based on hearsay — based on

Voice to Speaker: I can't hear you, I'm sorry
Speaker: We feel that this type of testimony is forbidded from extradition hearings and we can cite you a quotation
Brice: We will have an opportunity at your closing statement from when your rebuttal to make as complete a statement as you wish, apparently you elect not to examine Mr. Calder, and I have no further questions — Do you have any one further.
Answer: No thank you.

Gentlemen, the floor is yours for whatever statement you would like to make in this regard.
Brice: Incidentally, Mr. Jesus what is your precise function with the Department of Justice — I guess I didn't get that.
Jesus: Sir, I'm a with the Department of Justice and the only reason I am here is because Ms. Lona Hansen did call us and strongly suggested that we be present, so we were not thinking we would be _____ to this case — we were thinking that we would only be asked questions _____
Brice: Do you have any statement then that you would like to make?

Calder Hearing Tape 1, Side 2

page 31

Jesus: Well I would like to — for you to give Mr. Luis Roman who is the District Attorney for Alemeda County — remarks that are personal against this person — saying things that are completely false and we would like to personally express his view in this matter.
Brice? Do you solemly swear to tell the truth, the whole truth and nothing but the truth and your testimony be given in these proceedings so help you God.
Roman: I do
Jesus: Please state your name for the record
Roman: Luis A. Roman
Jesus: What is your occupation
Roman:
Jesus: So you are the head District Attorney for Aguadilla County is that correct — would you spell Aguadilla
Brice: How do you spell his last name?
Jesus: His name? Roman
Jesus: _____ Would you care to comment on this Affidavit
Roman: I would like to say that I don't understand English very well — I don't speak English very well either. Some things that don't sound correctly — please
Brice: I have no objection to that
Roman: I really get surprised when I hear _____ testimony because it changed our conversation His name was Mr. after about a 20 minute conversation especially with Mr. Kutmus was present at that time Mr. Kutmus asked me a few questions. He asked me about .
He asked me about the possibility of ____ I told him that we have
He asked me too about if we got authority — I explained that we have our own system and I tried to explain the difference between both systems. We talked about _____ he asked me about how many

Calder Hearing Tape 1, Side 2

page 32

I told him that in case that would have a
I told him that we have to say the same
He asked me the reason that
I asked him that maybe because the only one who can answer the qeustinon [*sic*] was the judge Moreno I told him that he that Calder was a _____ guy who worked for the federal government
Usually when people in Puerto Rico get shot
may have to go to jail.
I tried to explain that maybe was the reason that the Judge has

Brice: Let me interrupt you here. You put the low bails so as to really make sure that you can get out of jail with someone who lives outside of Aguidilla but I have lost the reason why it was important for someone who was outside Aguidilla.

What he said was that If I was charged for a crime here in Iowa I would be limited in my possibilities of getting someone to bail me out of jail
But you said high bail —
He resided in San Juan that is about 90 miles from Aguidilla — this is why they took this into consideration — they thought it was useless

Mr. Kutmus say that he was a gringo
I explain that he was not Puerto Rican

I told him that the day before we got in meeting I hear some say

asking for Judge
thats what I told him — we never, I never talked about _____ base we never talked about that. At that time I told Mr.
that _____ with the Supreme Court and asked him to

Calder Hearing Tape 1, Side 2

page 33

make a declaration that meeting was to be on the 6th of April

I say that I will try to check with the other lawyer

on the 13 of April — why that day — because he told us that he couldn't do the he had to bring Mr. Calder back to.

I told him that as soon as Mr. Calder show up we be available to talk about the use of
Mr. Calder asked me to in Puerto Rico. I told him that he will get he ask me about what and I told him that he will get.

Mr. Roman do you express to the hearing officer the situation of the past three years

Since 1978 my office has been present criminal charges a total of 64. One of them was a vehicle homicide. 8 was found guilty. One was

The guy who was charged with vehicle homicide he gets sentence for parole. The other 8 who were found guilty by jury all of their requests for special narcotic benefits we give them that benefit full requests from narcotic drug — we give them that benefit

Voice: They were allowed to return to North America — the United States — is that what you are saying — and they had — or was it they were paroled to their own home town in Puerto Rico.

Calder Hearing Tape 1, Side 2

page 34

Jesus — I think speaking No, what he is saying is that these people who were found guilty — 64 charges filed — there were 49 Americans (I got that) Of those 64 — jurys or judges found only 8 guilty (I got that) and he said of those 8 some got paroles and were allowed to serve that probation in the States. The rest of the 64 we present a dismissal.

Brice or Kutmus
Voice: None of them entered a plea of guilty? You said 8 were found guilty, does that include those who were tried and found guilty or was only one tried and found guilty and the others plead guilty?

Voice: Of those cases 64 no 65 found not guilty were 57 — found guilty 8

end of taped portion

[Exhibit N]

July 23, 1981

MR. BRICE OAKLEY, ESQ.
Legal Counsel to the Governor
Office of the Governor
State Capitol
Des Moines, Iowa 50319

RE: RONALD CALDER JOHNSON
Extradition (Governor's hearing of June 17, 1981)

Dear Sir:

We would very much appreciate it if you would instruct one of your assistants to kindly forward to the undersigned as soon as possible: a transcript of the hearing conducted on the 17th of June of 1981 regarding subject's extradition from Iowa to Puerto Rico, and a copy of the legal brief submitted by the defense in accordance with your instructions at the conclusion of the hearing.

Please inform this Unit in writing the points of law that the Honorable Governor Robert D. Ray is considering with you in order to reach a decision regarding subject's extradition.

It is still our firm position that matters outside of the scope of Section 425—4.4 (17A) of the Administrative Code of Iowa can not be considered by Governor Ray, as such a consideration not only violates Iowa law but the United States Constitution and Section 3182 of the United States Code as well.

Thank you for your assistance in this matter and please be assured of ours in any matter of your state's jurisdiction.

Sincerely,

/s/_____
ROBERT BUONO CRILLASCA
Special Prosecutor in Charge
of Extraditions
Criminal Division
Department of Justice

[Exhibit O(1)]

Office of the Governor
STATE CAPITOL
DES MOINES, IOWA

March 9, 1982

Ms. Lona Hansen
Assistant Attorney General
Hoover Building
L O C A L

Dear Lona:

Pursuant to the request of the Attorney General's office in Puerto Rico, I forwarded our Calder extradition hearing tapes to the Department of General Services for duplication.

I was subsequently informed by Bret Voorhees, the training officer, that tape No. one was successfully transcribed, but that tape No. two was destroyed in the process. We, of course, regret that very much, but I am forwarding the first tape duplicate to you.

Please feel free to forward it to Puerto Rico, explaining the circumstances which took place. You may verify this occurrence by contacting Mr. Voorhees at extention 6763.

Yours very truly,

/s/_____
BRICE C. OAKLEY
Administrative Counsel

enc: Calder tape

[Exhibit O(2)]

Department of Justice

March 18, 1982

Mr. Eduardo A. de Jesus Garcia
Special Prosecutor
Criminal Division
Department of Justice
P.O. Box 192
San Juan, Puerto Rico 00902

Re: Extradition of Ronald Calder [Johnson]

Dear Sir:

Enclosed please find a copy of the first tape of the June 17, 1981 hearing before Brice Oakley. As you can see from the enclosed letter, the second tape was destroyed in the duplicating process. Mr. Voorhees, who prepared the duplicate, told me that the tape became snarled in the high speed duplicator and ruined.

The tape that survived contains most of the evidence submitted by Mr. Calder and your initial objections to the admission of this evidence. I advise care in running the tape through your recorder; it became snarled at the end of the first side when I played it in my machine at "Fast Forward."

Sincerely,

/s/_____
LONA HANSEN
Assistant Attorney General

Enclosure

[Exhibit P]

JUAN ENRIQUE COLON
ABOCADO NOTARIO

September 22, 1981

Mr. Mark S. Pennington, Esq.
210 Fleming Building
218 Sixth Avenue
Des Moines, Iowa

RE: Ronald M. Calder

Dear Mr. Pennington:

This is to ratify in writing the conditions set forth to me by Mr. Pedro Colton, Chief Prosecutor for the Justice Department of the Commonwealth of Puerto Rico, in our last meeting held in San Juan, Puerto Rico on November 8, 1980.

In order to reach a reasonable agreement toward plea bargaining, Mr. Calder must return voluntarily at the earliest possible date. On his arrival, the Justice Department would agree to a reduction of bail to a maximum of $25,000.00 of which $10,000.00 should be posted in cash and the remaining $15,000.00 in bail bond or sureties. Afterwards, the District Attorney would consent to a change of venue if necessary, and, it is possible that at the date of trial, Mr. Calder could be allowed to enter a plea of guilty on the lesser charge of manslaughter, subject to the approval by the Court.

As you may now know, Mr. Calder could then qualify for probation if so recommended by the Parole Officer. If probation were granted, then in my opinion, and based on his qualifications, Mr. Calder could return to his homestate, or wherever he may be assigned to work in the United States subject to the supervision of the corresponding Parole Board.

I must emphasize that these conditions are subject to Mr. Calder's behaviour, and that I be retained and paid accordingly as local counsel for the defense.

Cont.

[Exhibit P]

JUAN ENRIQUE COLON
ABOCADO NOTARIO

September 22, 1981

Please contact me or the Justice Department as soon as Mr. Calder reaches a final decision.

This letter must be held in strict confidence and I do not authorize anyone to circulate the same to any person or entity whatsoever.

Yours truly,

/s/_____
JUAN ENRIQUE COLON

dlb
cc/Secretary Justice
Luis A. Roman, District Attorney